

EXHIBIT H



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

June 16, 2021

Mr. William Flachsbart
Flachsbart & Greenspoon, LLC
333 N. Michigan Ave, 27th Floor
Chicago, IL 60601

Re: ***Freedom of Information Act (FOIA) Request No. F-21-00102***

Dear Mr. Flachsbart:

This is the Agency's notice to extend the response time limit to your Freedom of Information Act (5 U.S.C. § 552) request for a copy of:

We seek disclosure of agency records in your possession that fall within the following categories:

1. Records that indicate which judge, panel, or party suggested to expand the panel (see IPR2017-01 068 Paper 19, Page 2, Paragraph 2), and when it was suggested;
2. Records that indicate when Chief Judge David Ruschke was added to the panel in IPR2017-01068 and IPR2017-01186;
3. Records of individuals other than panel members participating in or consulting with respect to the opinion denying the motion to dismiss in IPR2017-01068 Paper 19 dated 12/19/2017 or IPR2017-01186 Paper 14 dated 12/19/2017;
4. Records of ex parte communications concerning the IPR2017-01068, IPR2017-01186 or sovereign immunity involving David Ruschke, Scott Boalick, Jacqueline Bonilla, Scott Weidenfeller, Robert Weinschenk, Charles Boudreau, Jacqueline Harlow, or Jennifer Bisk;
5. Records concerning IPR2017-01068, IPR2017-01186, or sovereign immunity authored or sent by individuals of the executive branch (outside the USPTO), including such documents in the custody of Scott Boalick, Jacqueline Bonilla, Scott Weidenfeller, Robert Weinschenk, Charles Boudreau, Jacqueline Harlow, or Jennifer Bisk, or in the files of former employees Joe Matal, Nathan Kelley, or David Ruschke;
6. Records concerning IPR2017-01068, IPR2017-01186, or sovereign immunity authored or sent by individuals of the legislative branch, including such documents in the custody of Scott Boalick, Jacqueline Bonilla, Scott Weidenfeller, Robert Weinschenk, Charles Boudreau, Jacqueline Harlow, or Jennifer Bisk, or in the files of former employees Joe Matal, Nathan Kelley, or David Ruschke;

7. Records concerning IPR201 7-01068, IPR2017-01186, or sovereign immunity authored or sent by individuals of the judicial branch, including such documents in the custody of Scott Boalick, Jacqueline Bonilla, Scott Weidenfeller, Robert Weinschenk, Charles Boudreau, Jacqueline Harlow, or Jennifer Bisk, or in the files of former employees Joe Matal, Nathan Kelley, or David Ruschke;
8. Records that indicate that any of the following individuals participated in or were consulted with respect to the opinion denying the motion to dismiss in IPR201 7-0 I 068 Paper 19 Dated 12/19/2017 or IPR2017-01186 Paper 14 dated 12/ 19/2017: Thomas Krause, Mark Freeman, William Havemann, Malcolm Stewart, Rachel Kovner, John Lee, Joe Keeley, Vishal Amin, Branden Ritchie, Sharon Prost, Timothy Dyk, Raymond Chen, Todd Hughes, or Richard Linn,, or in the files of former employees Joe Matal, or Nathan Kelley;
9. Records or information that show the original author of Jacqueline Harlow's concurring opinion in IPR201 7-0 I 068;
10. Records or information that show the original author of Jennifer Bisk's concurring opinion in IPR201 7-0 I 186;
11. Records related to how Jacqueline Harlow and Jennifer Bisk came to issue identically worded opinions in the IPR2017-01068 and IPR2017-01186 despite being on different panels ;
12. Records with the phrase "I write separately to express my view that a state university, having availed itself of Patent Office procedures to secure patent rights", including such documents in the custody of Scott Boalick, Jacqueline Bonilla, Scott Weidenfeller, Robert Weinschenk, Charles Boudreau, Jacqueline Harlow, or Jennifer Bisk, or in the files of former employees Joe Matal, Nathan Kelley, or David Ruschke;
13. Records with the phrase "To my eye, therefore, far from implicating the sovereignty or dignity of the states", including such documents in the custody of Scott Boalick, Jacqueline Bonilla, Scott Weidenfeller, Robert Weinschenk, Charles Boudreau, Jacqueline Harlow, or Jennifer Bisk, or in the files of former employees Joe Matal, Nathan Kelley, or David Ruschke ;
13. Records that show who is responsible for the sovereign immunity positions taken in the IPR201 7-0 I 068 and IPR2017-01186 (i.e., that filing suit in federal court and/ or application for a patent constitutes waiver of sovereign immunity);
14. Records that indicate that President Donald Trump approved or commented on either of the positions on waiver of sovereign immunity expressed in IPR201 7-0 I 068 and IPR2017-01 186;
15. Records that indicate that Solicitor General Noel Francisco approved or commented on either of the positions on waiver of sovereign immunity expressed in IPR201 7-0 I 068 and IPR2017-01 186;
16. Records that indicate that Secretary Wilbur Ross approved or commented on either of the positions on waiver of sovereign immunity expressed in IPR201 7-0 I 068 and IPR2017-01186;
17. Records that indicate that USPTO Acting Director Joe Matal approved or commented on either of the positions on waiver of sovereign immunity expressed in IPR201 7-0 I 068 and IPR2017-01 186;

18. Records that indicate that USPTO Solicitor Nathan Kelley approved or commented on either of the positions on waiver of sovereign immunity expressed in IPR201 7-0 I 068 and IPR2017-01 186;

In accordance with 37 C.F.R. § 102.6(c), the response time limit is hereby extended ten additional working days to June 25, 2021.ⁱ This extension is necessary to process the request because of the need to consult with the subject matter expert and provider of the documents in question regarding release determinations. The Agency's response will promptly follow its review and final assembly of responsive documents.

Sincerely,



Karon E. Seldon
USPTO FOIA Specialist
Office of General Law

ⁱ The Agency is in receipt of your check received June 3, 2021. Due to the request being placed on hold for fees, the initial determination date is delayed.